

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

CRIM. NO.: 7:18-CR-00076-BO

UNITED STATES OF AMERICA)	
)	
v.)	GOVERNMENT’S SUGGESTION
)	OF SUBSEQUENTLY DECIDED
JESUS NICOLAS RIOS,)	AUTHORITY
)	
Defendant)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and pursuant to Local Civil Rule 7.1(g), provides this suggestion of subsequently decided authority:

In *United States v. Martin*, 916 F.3d 389 (4th Cir. 2019), the Fourth Circuit held that a district court considering a motion for reduction in sentence under 18 U.S.C. § 3582(c)(2) must consider post-conviction evidence, including evidence of rehabilitation. *Id.*, at 387-98. The Fourth Circuit recently held this requirement also applied to motions for reduction in sentence under 18 U.S.C. § 3582(c)(1)(B). *United States v. McDonald*, --- F.3d ---, 2021 WL 218888 (4th Cir. 2021) (vacating the district court’s denial of defendant’s motion for reduction of sentence for “fail[ing] to provide individualized explanations . . . in the face of newly presented post-sentencing conduct”). At least one other district court in the Fourth Circuit has held this requirement also applies to motions for compassionate release filed under 18 U.S.C. § 3582(c)(1)(A). See e.g. *United States v. Nabaya*, 2021 WL 54361, at * 3 (E.D.Va.

Jan. 6, 2021). Although the United States does not question the thoroughness of the Court's review of Defendant's pending compassionate release motion, in light of the aforementioned precedent the United States respectfully requests that the Court, in ruling on Defendant's motion, expressly address any non-frivolous argument made by Defendant regarding post-sentencing conduct, including any rehabilitative efforts while incarcerated.

Respectfully submitted this 12th day of February 2021.

ROBERT J. HIDGON, JR.
United States Attorney

BY: /s/ Lucy Partain Brown
LUCY PARTAIN BROWN
Assistant United States Attorney
United States Attorney's Office
Criminal Division
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601
Telephone: (919) 856-4879
Facsimile: (919) 856-4487
Email: Lucy.Brown@usdoj.gov
GA Bar No: 749558

CERTIFICATE OF SERVICE

This is to certify that I have this 12th day of February 2021, served a copy of the foregoing upon the defendant by electronically filing the foregoing with the Clerk of Court, using the CM/ECF system, which will send notification of such filing to:

Nardine Guirguis
Guirguis Law
434 Fayetteville Street
Suite 2140
Raleigh, NC 27601
Telephone: (919) 832-0500
Email: nardine@guirguislaw.com

/s/ Lucy Partain Brown
LUCY PARTAIN BROWN
Assistant United States Attorney
United States Attorney's Office
Criminal Division
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601
Telephone: (919) 856-4879
Facsimile: (919) 856-4487
Email: Lucy.Brown@usdoj.gov
GA Bar No: 749558